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Report to the Chairman, Subcommittee on Oversight and Investigations, Committee on Energy and Commerce, House of Representatives

47

February 1989

ENERGY MANAGEMENT

DOE Should Improve Its Controls Over Work for Other Federal Agencies

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Resources, Community, and
Economic Development Division

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February 9, 1989

The Honorable John D. Dingell
Chairman, Subcommittee on Oversight and
Investigations,
Committee on Energy and Commerce
House of Representatives

Dear Mr. Chairman:

In response to your request, this report discusses three issues regarding the controls exercised by the Department of Energy (DOE) over the work it performs for non-DOE entities. These issues are (1) inconsistencies in implementing DOE policies concerning work for others at the operations office level, (2) the recovery of DOE costs to review and approve work for others projects, and (3) the appropriateness of a certain type of work for others performed by Martin Marietta Energy Systems under the Oak Ridge Operations Office, and the lack of DOE headquarters oversight of this work.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of this letter. At that time, we will send copies to the Secretary of Energy and other interested parties.

This work was performed under the direction of Keith O. Fultz, Director, Energy Issues. Other major contributors are listed in appendix I.

Sincerely yours,

J. Dexter Peach
Assistant Comptroller General

Executive Summary

Purpose

The products and services that the Department of Energy (DOE) provides to non-DOE entities, primarily other federal agencies, have increased significantly since 1980, growing from $725 million to $2.2 billion in fiscal year 1987. The Chairman, Subcommittee on Oversight and Investigations, House Committee on Energy and Commerce, asked GAO to evaluate DOE's controls over the work it performs for others. Specifically, GAO was to determine whether

- DOE has adequate controls over the work it performs for non-DOE entities,
- the controls are being properly implemented, and
- the controls conform to pertinent laws and regulations.

Background

DOE performs work for outside organizations (as did its predecessor agencies) either directly or through DOE's management and operating contractors. By performing this work, the outside organizations can take advantage of DOE's immense and often unique research capabilities. While DOE benefits through better, more continuous use of its facilities and personnel—especially during periods when its own needs decline.

Most non-DOE work is authorized under the Economy Act of 1932, which allows federal agencies to obtain goods and services from other federal agencies as long as the work cannot be provided as conveniently or cheaply by the private sector. The act also requires performing agencies to recover actual costs from the sponsoring agencies. Other legislation allows DOE to perform work for non-DOE sponsors on either a reimbursable or cash advance basis. DOE exercises control over the work through agencywide policies that incorporate these legislative requirements. Implementation takes place at the DOE field office level (such as the operations offices), usually through local procedures requiring DOE review and approval of non-DOE projects to ensure consistency with the agencywide policies. The work is actually performed by DOE's contractors, with DOE personnel providing oversight.

The DOE operations offices administratively oversee all non-DOE work by reviewing and approving individual projects to ensure that they comply with DOE acceptance criteria. DOE headquarters offices provide the primary programmatic oversight of both DOE and non-DOE work performed by the operating contractors. Headquarters personnel annually review and approve proposed contractor levels of funding and personnel for non-DOE work, and program areas in which the work will be performed.

by the contractors. Each DOE multiprogram laboratory is under the jurisdiction of a headquarters office for this purpose.

Results in Brief

While DOE's existing policies concerning non-DOE work generally conform to the pertinent legislation, effective control may not be assured because of inconsistent implementation at the field office level. Implementation varies significantly because there are no established standards for overseeing non-DOE work. In addition, DOE does not track its own indirect oversight costs and recover them from other federal agencies, as the Economy Act requires. As a result, DOE does not have (1) assurance in all cases that the actual work is consistent with the legislation or its own acceptance criteria and (2) the information needed to accurately determine the level of resources needed for oversight of non-DOE work.

GAO also found that an operations office organizationally moved one contractor group out of a national laboratory after headquarters officials raised concerns about the appropriateness of the group's non-DOE work. This action effectively removed the work from DOE headquarters oversight. The net result of the move is that questions remain unresolved—both in terms of whether the work could be performed as conveniently or cheaply in the private sector and whether it is appropriate, under DOE's missions, for DOE's contractor to do the work at all. In fiscal year 1987, the group was responsible for about half of the $324 million in non-DOE work at the cognizant operations office.

Principal Findings

Inconsistent Implementation of DOE Controls

DOE's eight operations offices are responsible for the bulk of the work performed for non-DOE entities. Three of the four largest of these offices were included in GAO's review and were found to be inconsistently implementing DOE's controls. Although each had incorporated nearly all the agencywide requirements in its own procedures, actual implementation of the procedures varied between the three offices. Each office required different amounts of information on which it based its project approvals. One office required little information on how a project met DOE's acceptance criteria. In reviewing proposals, that office relied heavily on statements of its contractors who would perform the work to determine if it were appropriate. The other two offices required a project request form with information on how the DOE acceptance criteria were met, and

a detailed work proposal. All three offices required approval of the detailed proposal before authorizing the contractor to begin work.

None of the three offices complied with DOE's policy requiring the responsible contracting officer to make written determinations and certifications that the non-DOE work complied with DOE acceptance criteria, although the two offices that used project request forms required contracting officer approval of the forms as a substitute. Monitoring of projects after approval is not required by DOE policy, but DOE personnel in two offices monitored the non-DOE projects.

DOE Costs Not Identified or Recovered

DOE's policy of not charging other federal agencies for its own costs of reviewing, approving, and monitoring non-DOE projects is inconsistent with GAO's interpretation of the Economy Act. These costs are not tracked by the offices we reviewed; officials could only estimate the DOE personnel involved. Because personnel needs for this work are considered insignificant, even though they are not accurately determined, DOE does not specifically request staff allocations for this purpose from the Office of Management and Budget. As a result, DOE is absorbing the oversight costs of non-DOE work both financially and from a staffing perspective.

Appropriateness of One Contractor's Non-DOE Work Not Yet Resolved

In 1985, a major contractor group involved in development of advanced computer systems at a DOE laboratory was removed from DOE headquarters oversight. Prior to the move, headquarters officials responsible for the laboratory decided not to approve the group's non-DOE work because it (1) did not appear to have a true "research" component, (2) was not consistent with the approved missions of the laboratory, and (3) appeared to be work that could be done by the private sector. Despite these concerns, DOE has not performed a formal evaluation to determine whether the work could be performed as conveniently or cheaply by the private sector. Also, without headquarters programmatic oversight, the issue of the work's conformance with DOE missions has not been fully resolved.

Recommendations

Although DOE has recently taken action to eliminate certain financial weaknesses associated with non-DOE work, GAO recommends that the Secretary of Energy strengthen a number of other DOE controls by directing appropriate DOE officials to, among other things,

- establish minimum standards for the (1) amount of information needed to approve a non-DOE project, (2) quality of reviews performed by DOE prior to project approval, and (3) amount of DOE monitoring necessary to ensure that the contractors are adequately performing the work;
- revise DOE policy to require other federal agencies to reimburse DOE for its costs in overseeing non-DOE work; and
- formally determine whether the work performed by the one contractor group outside DOE programmatic oversight can be done as conveniently or cheaply in the private sector. If so, DOE should terminate the work. If not, DOE should immediately assign the work to a DOE headquarters group for oversight.

Other recommendations are discussed in the report. (See chaps. 2 and 3.)

Agency Comments

GAO discussed this report with DOE officials. They generally agreed with the facts presented, and suggested several changes that were incorporated where appropriate. However, as requested, GAO did not obtain official agency comments on this report.

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Abbreviations

DOE	Department of Energy
FY	fiscal year
GAO	General Accounting Office
NRC	Nuclear Regulatory Commission
WFO	Work for Others

Chapter 1

Introduction

The Department of Energy (DOE) was created in 1977 to, among other things, achieve effective management of federal energy functions, coordinate national energy policy, and carry out a balanced and comprehensive energy research and development program. In fiscal year 1987, DOE received appropriations in the amount of $13.2 billion to carry out its various programs.

DOE and its predecessor agencies have performed work for outside organizations as well as carrying out its own programs. Work for Others (WFO) is work that DOE performs, either directly or through its management and operating contractors, for non-DOE entities: other federal agencies, state and local governments, private organizations, or foreign entities. Through WFO, these outside organizations can take advantage of DOE's immense and often unique research capabilities. DOE also benefits through better, more continuous use of its facilities and personnel, especially during periods when its own needs decline.

In recent years, the amount of WFO accepted by DOE has increased dramatically. (See fig. 1.1.) In fiscal year 1980, DOE received $724.5 million in WFO funds from non-DOE entities.[1] By fiscal year 1984, annual WFO obligations were $1.35 billion, and in 1987 they had increased to $2.18 billion, agencywide. Estimates for future years have ranged to over $3 billion, but several DOE officials believe that WFO obligations are beginning to stabilize.

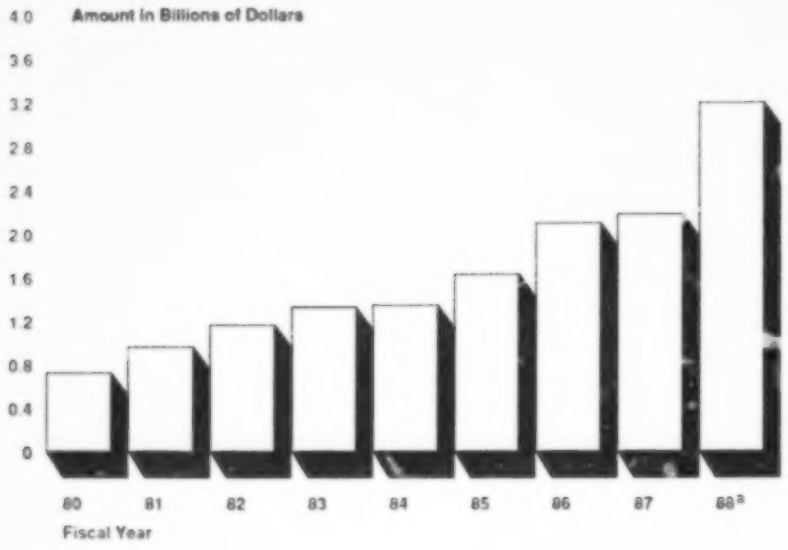
The Department of Defense is DOE's biggest outside customer; the Nuclear Regulatory Commission (NRC), other federal agencies, and nonfederal entities provide the balance. (See fig. 1.2.) Virtually all of the work is performed by contractors who operate DOE's national laboratories or weapons production facilities.

Economy Act and Other Authorizing Legislation

Although several laws permit federal agencies to perform work for each other, the primary legal basis is the Economy Act of 1932 (31 U.S.C. 1535-1536). The purpose of this law is to allow materials, supplies, facilities, and personnel of one agency to be used by another. This results in economies by allowing full use of government resources and eliminating duplication and overlap in government activities. Under the Economy Act, other government resources may be used if the (1) resources are

[1] Virtually all funds received by DOE from non-DOE sources are subsequently obligated to DOE's operating contractors. It therefore tracks these funds as obligations. In this report, we will use the term "obligations" to refer to WFO funds received by DOE unless otherwise specified.

Figure 1.1: Growth in DOE WFO Obligations, Fiscal Years 1980-88



[a]Estimated

Source: DOE Office of Organization and Management Systems

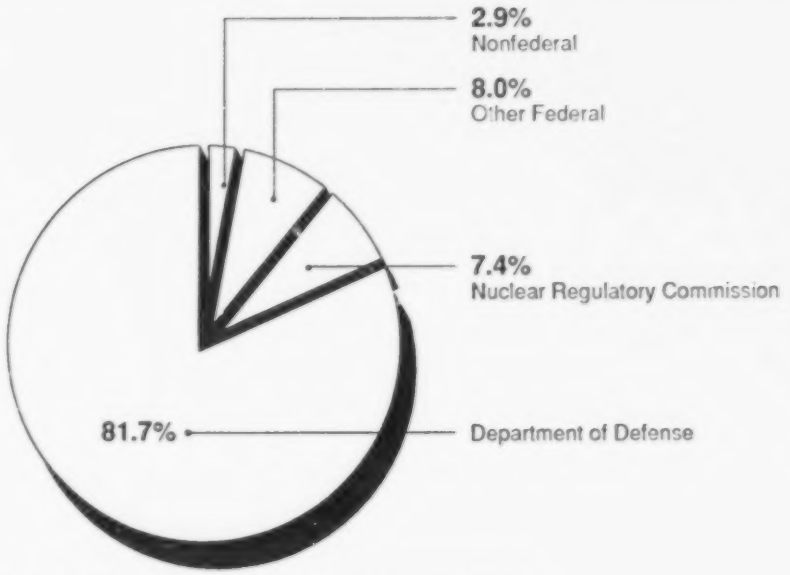
available, (2) sponsoring agency determines it is in the best interest of the government, (3) providing agency can fill the order either directly or by contract, and (4) goods or services cannot be provided as cheaply or conveniently by a commercial enterprise.

Other legislation authorizes DOE to perform WFO. The Atomic Energy Act of 1954, for example, allows work to be performed for other federal agencies only if private facilities or laboratories are not adequate for the purpose. The Energy Reorganization Act of 1974, among other things, gives the NRC special access to DOE research and development activities. In the absence of other specific authority to perform WFO, the Economy Act prevails.

DOE Policies and Procedures for Controlling WFO

DOE has two primary mechanisms for controlling the work it performs for other agencies. DOE Order 4300.2A, "Non-Department of Energy Funded Work" (DOE WFO Order), establishes DOE policy, responsibilities, and procedures for authorizing and administering non-DOE-funded work performed under DOE contracts. It defines criteria for accepting work from outside sources. These criteria are designed to ensure that WFO is

Figure 1.2: Non-DOE-Funded Work, Fiscal Year 1987 Actual Costs



Source: DOE Office of Organization and Management Systems

consistent with DOE's mission and with applicable laws and regulations, and that it will not (1) interfere with DOE's own work, (2) create a detrimental future burden on DOE, and (3) put DOE in the position of competing with the private sector. The order also affects the sponsoring agency, requiring certifications that its use of the DOE facility complies with the Atomic Energy Act and the Economy Act.

DOE Order 2100.10A (Financial Policy Order) establishes financial policies and procedures to be followed by DOE and its operating contractors in entering into a WFO agreement and subsequently incurring, recording, and billing WFO costs. This order has recently been revised to correct a number of WFO financial deficiencies identified through various DOE headquarters and field office reviews.

The DOE orders are written by headquarters policy offices, but are implemented at DOE's eight operations offices, two energy technology centers, two naval reactor offices, and two other offices where WFO is performed. In fiscal year 1987, the operations offices accounted for 89 percent of WFO obligations. These offices act independently, reporting to the Secretary of Energy. They generally issue their own implementing

procedures that incorporate the headquarters requirements, and which may also include special instructions for administering the WFO projects. Because the actual work is nearly always performed by an operating contractor managed by an operations office, these procedures are concerned with DOE oversight rather than performance of the work.

WFO projects involving DOE's operations offices are usually initiated when a sponsor contacts the DOE contractor with a WFO request. If the contractor believes the project is worthwhile and consistent with DOE acceptance criteria, a request will be made to the DOE operations office. The operations office provides administrative oversight through reviews and approvals of individual WFO projects to ensure that they comply with DOE acceptance criteria. The operations office is also responsible for processing all funds transfers from other agencies, authorizing the operating contractors to do the work, modifying the operating contracts, and billing the sponsors for work performed.

In contrast, DOE's Secretarial Officers in headquarters provide the primary programmatic oversight to the operating contractors. For DOE's own work, oversight is accomplished through the institutional planning process, the budget process, and actions by headquarters personnel to authorize work in conformance with both the institutional plans and the approved budget. WFO is included in this oversight process when headquarters personnel annually review and approve proposed contractor levels of WFO funding and personnel resources, and the program areas where the work will be performed by the contractors.

DOE Has Taken Action to Eliminate Weaknesses It Has Identified in Financial Controls Over WFO

During the past 2 years, DOE has identified a number of weaknesses in its financial controls over WFO. In fiscal year 1986, financial administration of WFO was identified as a material weakness in DOE's report under the Federal Managers Financial Integrity Act. To comply with the act, DOE conducts annual assessments to determine whether its system of accounting and administrative control complies with standards prescribed by the Comptroller General. The WFO material weakness identified during these assessments resulted from deficiencies at several DOE field offices, involving the performance of WFO both before DOE approved the projects and after sponsor funds had been exhausted, and the performance of work for nonfederal entities without the required advance funding.

A number of actions were taken to correct the weaknesses, and some of these were formally incorporated in an August 1988 revision of DOE's

Financial Policy Order. They include (1) accepting WFO projects only after the DOE WFO Order requirements are met, (2) specifying that a written WFO agreement constitutes a budgetary resource that must be received before work may be authorized, (3) providing a stricter definition of a WFO agreement, and (4) requiring control systems that can predict funding shortfalls in time to stop work or obtain additional funding. The revised order was issued after we completed our audit work at the three operations offices, so we did not attempt to review its effectiveness.

Objectives, Scope, and Methodology

Our objectives in conducting this review were to determine whether (1) DOE has adequate controls over the work it performs for other federal agencies, (2) those controls are being properly implemented, and (3) they conform to pertinent laws and regulations.[1] The review was requested by the Chairman, Subcommittee on Oversight and Investigations, House Committee on Energy and Commerce. The Subcommittee has oversight responsibility for DOE, and, in light of the recent dramatic increase in the amount of work done for others, the Chairman questioned whether DOE is properly controlling the work. As agreed with the Subcommittee staff, we limited the scope of our work to DOE management controls because DOE's financial controls had been recently revised on the basis of deficiencies identified through internal reviews.

To accomplish these objectives, we reviewed DOE policies and procedures regarding WFO at both the headquarters and operations office levels. At headquarters, we interviewed DOE officials responsible for generating the policy and reviewing its implementation at the field offices. This included representatives from the following:

1. Office of the Assistant Secretary for Management and Administration.

a. Office of Organization and Management Systems. This office is responsible for generating and revising the DOE WFO Order, as well as reporting annually to the Secretary on DOE management of WFO.

b. Office of the Controller. This office is responsible for generating and revising the DOE Financial Policy Order and performing reviews of DOE offices as part of the Federal Manager's Financial Integrity Act.

[1]Internal control standards for federal agencies are defined in GAO's publication Standards for Internal Controls in the Federal Government.

2. Office of Energy Research, Laboratory Management Division. This group generates DOE policy concerning the Institutional Planning process, in addition to participating in the process for oversight of certain DOE national laboratories.

3. Office of Defense Programs; Offices of Deputy Assistant Secretaries for Military Applications, and Planning and Resource Management. These offices are responsible for guidance to Defense Programs and DOE field offices on reviewing and approving Institutional Plans from certain DOE national laboratories. They also provide programmatic guidance to operating contractors under Defense Programs on acceptance of individual WFO projects.

We performed detailed audit work at two DOE operations offices—Albuquerque and San Francisco—and at one operating contractor under each of these offices: Sandia National Laboratory under Albuquerque, and Lawrence Livermore National Laboratory under San Francisco. We also performed limited audit work at the Oak Ridge Operations Office and its largest contractor, Martin Marietta Energy Systems. At this location, we relied to a large extent on work performed by the DOE Inspector General, whose staff conducted a similar review of Oak Ridge WFO at the time we were conducting our survey. We selected these offices because they are 3 of the 4 largest DOE operations offices and accounted for 58 percent of all DOE WFO in fiscal year 1987. Similarly, the selected contractors represented the first, third, and fourth largest recipients of WFO funds in fiscal year 1987; the second largest is Los Alamos National Laboratory, also under Albuquerque.

At each location, we interviewed DOE and contractor officials involved in WFO review, approval, and management and performance. We also reviewed WFO proposals and supporting documents provided by these officials as examples of their oversight. We reviewed policies and procedures generated at the headquarters and operations office levels to determine whether such guidance complies with legal and regulatory requirements regarding WFO.

We reviewed 10 judgmentally selected WFO projects—5 each at Albuquerque and San Francisco—to determine if the guidance was being effectively implemented. Our selection criteria were (1) recency (new enough to have incorporated the December 18, 1986 revision of the DOE WFO Order) and (2) size ($500,000 or greater). We reviewed all available

documentation associated with the 10 projects at both DOE and the contractors. We interviewed DOE and contractor personnel involved in preparing each project proposal, reviewing and approving it, and monitoring it after approval. We also contacted one technically oriented representative of the sponsor for each project to determine the amount of technical oversight and participation given by the sponsor.

We examined reports and supporting documentation for reviews of WFO performed in the last 2 to 3 years by headquarters or the operations offices we visited. These included evaluations by the Inspector General, DOE internal review groups, contractor internal review groups, the DOE Office of the Controller, and the DOE Office of Management and Administration.

We discussed the factual information in this report with DOE officials at headquarters in Washington, D.C., and at the Albuquerque, Oak Ridge, and San Francisco operations offices. The officials generally agreed with the facts, and offered a few suggested changes that were incorporated where appropriate. However, as requested by the Chairman, we did not obtain official agency comments on this report.

Our review was conducted in accordance with generally accepted government auditing standards between September 1987 and October 1988.

DOE Policies Are Adequate, but Inconsistent Implementation Does Not Ensure Effective Control

DOE has established a number of controls over WFO by incorporating requirements of the Economy Act and other pertinent legislation in its agencywide policy requirements. For the most part, these requirements are mirrored in implementing procedures at the operations offices we reviewed. However, the procedures are not implemented consistently, and some procedures are not followed strictly enough to ensure effective control. For example, Albuquerque officials often rely on contractors' analyses of whether work can be performed in the private sector rather than by conducting independent analyses. Also, the information received by some operations offices from contractors may not be adequate for DOE reviewers to make informed decisions on whether a WFO project meets DOE and legislative requirements. For example, Albuquerque does not receive detailed cost breakdowns in proposals from Sandia National Laboratory, making it difficult to independently determine whether the work will interfere with contractor performance of DOE work. Although not required by DOE-wide policy, some WFO projects at each of the three offices included in our review are monitored after approval while others are not. These inconsistencies diminish DOE's overall assurance that the work it performs for others is appropriate and properly controlled.

DOE Policies Incorporate Pertinent Legislative Requirements

The controls called for in DOE's two WFO orders are generally adequate to implement the requirements of the Economy Act, the Atomic Energy Act, and other pertinent legislation. The orders also require DOE approval of WFO projects to ensure that DOE's own interests are served, and establish responsibility for financial control of the work. Procedures established at the operations offices generally incorporate the requirements of the DOE orders. DOE's institutional planning process adds to overall DOE control of WFO.

DOE-Wide Policies and Procedures

The DOE WFO Order (4300.2A) and Financial Policy Order (2100.10A) generally incorporate the requirements of the Economy Act and the Atomic Energy Act. Under the Economy Act, work for other federal agencies is allowed if

- funding is available,
- the head of the ordering agency or unit decides the order is in the best interest of the government,
- the agency or unit to fill the order is able to provide the ordered goods or services either directly or by contract, and

- the head of the agency decides that ordered goods or services cannot be provided as conveniently or cheaply by a commercial enterprise.

The DOE WFO Order establishes seven criteria for DOE acceptance of WFO. The responsible contracting officer must determine and certify that the work:

1. Is consistent with DOE's mission.

2. Would not adversely affect DOE work at the performing facility.

3. Would not place the performing facility in direct competition with the private sector.

4. Would not create a potentially detrimental future burden on DOE resources.

5. Is consistent with applicable DOE orders.

6. Is consistent with DOE legislative authority.

7. Is consistent with standards for the humane treatment of human and animal subjects.

Three of the seven criteria above (1, 2, and 4) relate to the Economy Act's requirement that the performing agency be able to provide the goods and services requested. The third criterion incorporates the act's requirement that a commercial enterprise cannot provide the requested goods and services as cheaply or conveniently as the government.

Another section of the DOE WFO Order requires DOE to obtain written certifications from the sponsor that the use of the DOE facility complies with the Economy Act and the Atomic Energy Act. In our view, this fulfills the Economy Act's requirement that the ordering agency determine that the work is in the best interest of the government, and the Atomic Energy Act's requirement that work only be performed if private facilities or laboratories are not adequate. In keeping with the Energy Reorganization Act, which gives the Nuclear Regulatory Commission access to DOE research facilities regardless of commercial availability, the Commission is exempted from making this certification.

The DOE Financial Policy Order incorporates the Economy Act's requirement that funds be available. It requires that other federal agencies

fully fund any work done by DOE or its contractors before work starts, if the work is to be completed during the current fiscal year. If the WFO project is expected to go into succeeding years, DOE must receive funds for work in the current year and 3 months into the following fiscal year. The order allows certain DOE officials to grant exceptions to this requirement. However, in no case can an exception be granted necessitating the use of DOE funds.

The Financial Policy Order further specifies procedures to be followed in the financial control of WFO projects. Obligational authority must be obtained from other agencies (or cash advances obtained from nonfederal entities) so that DOE can certify that funds are available before authorizing work to begin. The cognizant finance or budget office must develop financial information on the status of funds, obligations, and expenditures incurred for each reimbursable agreement. Obligations and expenditures for a WFO agreement may not exceed the budgetary resources authorized in the agreement, and funds may only be used for the purpose intended.

These two orders also establish specific responsibilities within DOE to ensure that the policy requirements are met. Headquarters offices are responsible for developing WFO policies and procedures, approving overall levels of WFO to be performed at cognizant DOE facilities, and reviewing the level and general nature of the WFO at multiprogram laboratories as part of the DOE Institutional Planning process.[1] The heads of field elements (e.g., operations office managers) are responsible for implementing procedures for reviewing, authorizing, assigning, and controlling WFO requests that are consistent with DOE policy.

DOE Operations Offices' Implementing Procedures

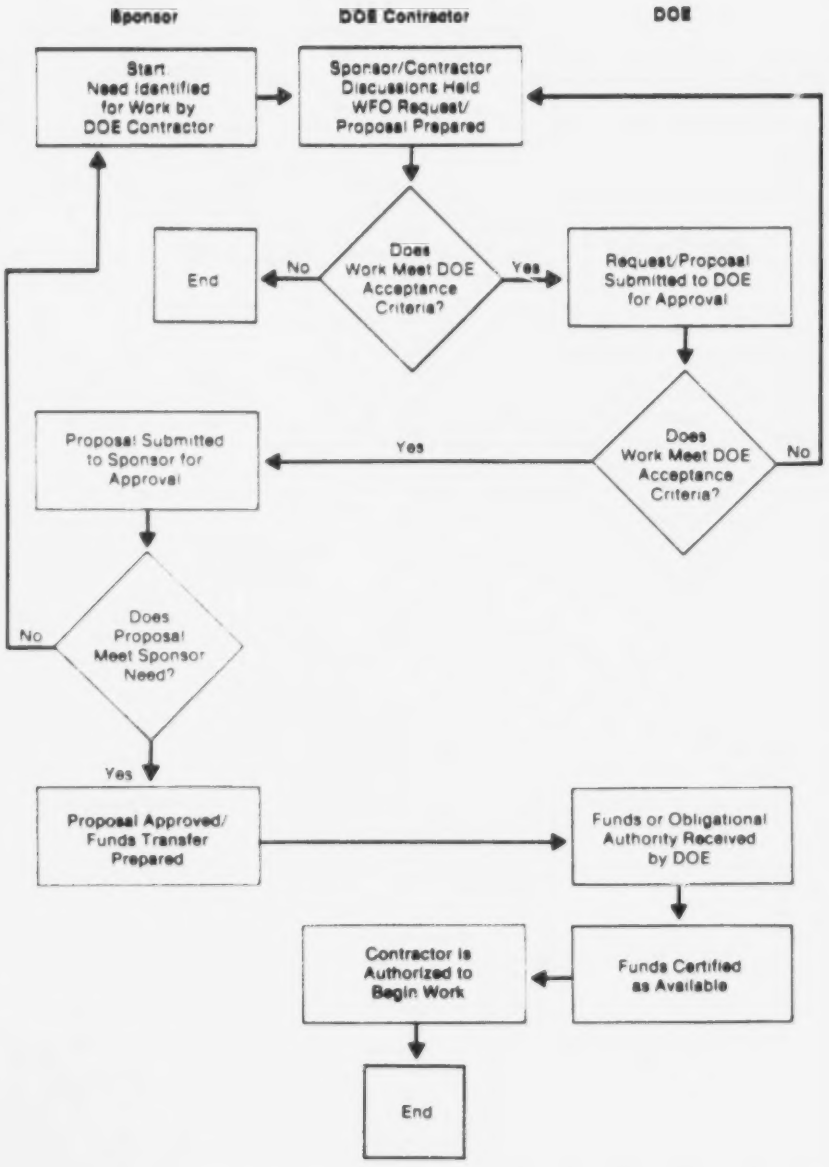
Implementation of the DOE orders takes place at its field offices, where more than 99 percent of WFO is performed. The process of reviewing and approving WFO generally works as shown in figure 2.1.

The operations offices we reviewed developed their own WFO orders or directives[2] that, for the most part, mirror the requirements of the DOE order. The local orders also contain more specific guidance for local

[1] A detailed discussion of this process appears in chapter 4.

[2] Albuquerque and Oak Ridge refer to their procedures as "orders," while San Francisco has a "management directive." In this report, we will refer to all three as orders. San Francisco's order has been in draft form for some time, but its requirements are being phased into implementation.

Figure 2.1: Flowchart of DOE WFO Approval Process



review and approval of WFO projects. The procedures established through these orders were similar in that they

- establish a focal point within the operations office with responsibility for WFO policies, procedures, and approval of projects;
- require reviews and certifications regarding the acceptance criteria which appear in the DOE order; and
- require funding authorizations from sponsoring agencies and cash advances from nonfederal entities before work can begin on a project.

The three offices—Albuquerque, Oak Ridge, and San Francisco—placed responsibility on the contractor for preparing WFO proposals on the basis of its discussions with sponsor personnel. Officials at each location said that contractor personnel are well versed in DOE requirements for accepting WFO, and screen all requests before forwarding them to DOE for review. In their view, this is a significant element of control.

We found two exceptions to the consistency between the DOE-wide policy and local implementing orders. The first inconsistency appeared in the Albuquerque order. Where the DOE WFO Order requires "the responsible contracting officer" to make written determinations and certifications regarding the seven acceptance criteria, the Albuquerque order places this responsibility on a program-oriented division which does not have contracting officer authority.

The Oak Ridge WFO order contained the second inconsistency. Unlike the DOE WFO Order, it excludes the performance of work for NRC from all of the order's requirements. Oak Ridge officials said this was done because NRC has special access to DOE research facilities. As a result, the contractors are not required to submit WFO request forms for NRC work, although all proposals and task statements for NRC work must still be approved by DOE program managers.

However, headquarters officials in the Office of Organization and Management Systems said that DOE's operations offices should not exclude organizations in addition to the exclusions in the DOE order. In October 1987, they verbally requested that Oak Ridge revise its order to eliminate this inconsistency. The Oak Ridge WFO Coordinator said the Oak Ridge order will be revised, but not until after the DOE WFO Order is revised, which is expected soon.[1] Oak Ridge plans to make all changes, including any needed to comply with the revised DOE order, at the same time.

[1]The Director, Office of Organization and Management Systems, told us that changes to the DOE WFO Order are being considered, but there are no specific plans for an official revision in the near future.

Headquarters officials do not routinely review field office WFO implementing orders to ensure that they conform to the DOE WFO Order. The DOE Director of Organization and Management Systems told us he generally receives copies of field office WFO procedures as a courtesy. He has occasionally noted inappropriate steps in these procedures and asked the office to correct them.

DOE Controls Over WFO Are Not Consistently Implemented by Its Operations Offices

Even though each of the three offices we reviewed had similar local implementing orders, some differences existed in the way the orders were followed. The information required by each office, as well as the procedures followed to review and approve WFO projects, varied significantly. Several different forms were used to establish a WFO agreement, resulting in different amounts of DOE control. Written determinations and certifications required by DOE's orders were not made, although two offices substituted other actions that they said meet this requirement. In addition, although not required by DOE's orders, two offices routinely monitored projects after approval, while a third did not.

Inconsistent Information Requirements and Review Procedures at DOE's Operations Offices

The three operations offices we reviewed concentrated their oversight efforts primarily on reviewing and approving WFO projects, rather than on monitoring projects after approval. The amount of information required for this process varied from office to office, as did the intensity of the reviews themselves. The three offices used different approaches to approving WFO projects and were therefore difficult to compare.

Information Submitted to DOE for WFO Review and Approval

Oak Ridge and San Francisco require their contractors to complete forms for DOE review addressing the seven acceptance criteria.[1] Oak Ridge's one-page form asks for brief explanations of the work to be performed, estimated costs, estimated staff-years needed, period of performance, amounts to be subcontracted, and discussions about whether the work will interfere with DOE work; whether it is of programmatic interest to DOE; and whether there are sufficient contractor resources available to perform the work. San Francisco's form requires a supporting explanation, impact analysis, and assessment for each "yes" answer given for one of the acceptance criteria. As with Oak Ridge, the work must be

[1]The Oak Ridge form does not require information on the humane treatment of human and animal subjects, although the WFO coordinator said it will be added. However, program managers obtain information on humane treatment for any applicable WFO project.

justified on the form as using a unique capability of the contractor and cannot be done in the private sector.

San Francisco also requires its contractors to submit a detailed proposal along with the WFO request form. This is reviewed before a WFO project is approved. Although not stated in its order, Oak Ridge requires its contractors to submit proposals, but only after the initial WFO request form is reviewed and approved. Oak Ridge WFO personnel review and approve the proposal before a WFO project is accepted. In addition, Oak Ridge has recently instituted a requirement that a task statement be included in each funds transfer. Program managers review these statements to ensure that the work conforms to the originally approved proposal before the contractor is authorized to do the work.

In contrast to San Francisco and Oak Ridge, Albuquerque does not require contractors to provide information on how a WFO project meets the DOE acceptance criteria, although some statements are generally made in the proposal concerning them. Albuquerque uses the WFO proposal as a basis for accepting a project; the office is generally not aware of a WFO project before the proposal is submitted. The agency requesting the work generally contacts Albuquerque's contractor, who then prepares a proposal and submits it to Albuquerque and the sponsor for acceptance. Albuquerque's WFO order directs that proposals contain a detailed breakdown of all costs (personnel levels and costs, material, indirect cost allocations, etc.), work description, identification of the percentage of work to be subcontracted, and an obligation and cost profile.

Despite the requirements for detailed information imposed at each office, the information is not always received from the contractor. In Albuquerque, we reviewed DOE files for nine WFO projects performed at Sandia National Laboratory. Only one of the files contained a detailed cost breakdown. Six of the nine did not contain an identification of the percentage of funds to be contracted out. Similarly, at San Francisco we found that the "Scope of Work" narrative, describing the scope and objectives of the work, was omitted from 4 of 13 proposal packages for work at Lawrence Livermore National Laboratory (although all 13 contained explanations of the DOE review criteria). In its recent review of Oak Ridge,[7] the DOE Inspector General found that 18 WFO request forms did not describe the work to be performed, but instead made reference

[7]DOE Inspector General Report, "Review of Martin Marietta Energy Systems, Inc., Work for Others Program" (Report no. ER-OC-88-14, Sept. 16, 1988).

to "complex problems" and or tools and techniques to be used to solve problems. In several instances, the description of a project duplicated the description of a prior, approved WFO request.

In evaluating the requirements for information on WFO projects, we considered Albuquerque's lack of a requirement for information on the DOE WFO acceptance criteria to be of concern. Although program coordinators may receive written or verbal information from the contractors as part of the review process, we believe that not requiring it at the start wrongly conveys the impression that the information is not essential for WFO approval. As a result, Albuquerque program coordinators may not be able to ensure that proper consideration is given to the DOE acceptance criteria in approving WFO projects.

Review Procedures Vary Significantly

The WFO reviews performed by DOE personnel at the three offices ranged from minimal to quite detailed. Albuquerque has a separate division responsible for overseeing WFO. Its program coordinators receive proposals from the contractors or, occasionally, from the sponsor and review them to determine whether (1) the work would interfere with DOE work, (2) it could be performed in the private sector, and (3) it was consistent with DOE missions.

However, the information available to make the determinations required by the DOE WFO Order was, in our view, not adequate for independent DOE assurance. The program coordinators said they rely on the contractors to determine that a project meets some of the criteria, particularly whether the work will interfere with ongoing DOE work. If additional information is needed to make the determinations, they said they obtain it from the contractor, generally by phone. Only one of the four coordinators we spoke to documented his reviews with notes to the file, and none of them documented changes made to proposals as a result of their reviews. Therefore, we could not verify the extent of these reviews.

When a funding document is received from a sponsor, the program coordinators said they match it with the original proposal. Albuquerque does not require and does not routinely receive task statements with incremental funding documents. However, if a work description accompanies the funding document, the program coordinators said they compare it with the original proposal. When the funding document is accepted from the sponsor, Albuquerque certifies that the funds are available and authorizes the contractor to begin work.

In contrast to Albuquerque, Oak Ridge and San Francisco performed more detailed reviews, each using a different approach. Oak Ridge has program managers in its Research and Waste Management Division and a WFO Review Committee that must review and approve a WFO project before the contractor is authorized to perform work. The program managers review the WFO request form and discuss the project in a meeting with at least two other WFO managers and a contractor representative. Questions are raised if the project does not appear to comply with DOE requirements. The program managers get additional information, clarifications, or revisions of the WFO proposal as necessary from the cognizant contractor personnel.

Program managers said they are particularly sensitive to whether the work can be done in the private sector and/or requires some unique capability of the contractor. A project will not be approved unless they feel the work is appropriate for the contractor and cannot be done elsewhere. Oak Ridge review officials provided copies of WFO requests showing that reviews took place before the project was approved.

The project is then presented to the Oak Ridge WFO Committee, composed of representatives from administrative and program functions of the operations office, where additional questions may be raised. If all issues are resolved to Oak Ridge's satisfaction, the WFO Committee approves the request form and authorizes the contractor to draft a detailed proposal. If problems cannot be resolved, the project is rejected. Even though the WFO Committee approval constitutes the "official" Oak Ridge approval of a project, it is contingent on at least two follow-on approvals of the proposal and task statement(s). The program managers review proposals using the same criteria as when reviewing the WFO requests. Task statements are reviewed to ensure consistency with the original statement of work.

San Francisco uses a different approach to perform reviews that are similar to those performed by Oak Ridge. WFO requests, proposals, and funding documents are reviewed by three organizations before work is authorized. The Contracts Management Division coordinates the WFO approval process. WFO requests are submitted to this office where routing slips are attached to document that appropriate reviews are performed. A program manager in the cognizant San Francisco operating division performs the first review, which addresses the DOE acceptance criteria. The review focuses on the proposed work's fit with the mission of DOE and with particular programs, as well as the work's potential impact on the contractor's ability to perform DOE work. A second review

is performed by the San Francisco Institutional Manager,[a] again focusing on the unique laboratory capabilities to do the work, as well as the proposal's overall impact on the contractor. He also reviews the proposals for excessive subcontracting and work of a sensitive nature that might attract publicity or require special handling.

During both San Francisco reviews, questions may be raised about the WFO proposal. These are generally resolved through telephone contacts with the appropriate contractor personnel. We noted a number of written comments in files, documenting that such review comments are made and resolved before the proposal is approved and sent to the sponsor. When the sponsor returns the proposal with a funds transfer, a third review is made by a San Francisco contracting officer to ensure that the sponsor has cited the proper legislation as justification for placing the work with the San Francisco contractor. At this point, the contractor is authorized to begin work.

DOE Efforts to Improve Consistency

The DOE Office of Organization and Management Systems recognizes the need for more consistency in the documents submitted by other agencies to establish a WFO project. It is now developing a WFO brochure for federal sponsors, outlining the responsibilities of the sponsors, DOE personnel, and DOE contractor personnel. Among other things, this document (currently in draft form) lists DOE WFO acceptance criteria and states that sponsors, when requesting work, must provide a written statement that the use of the DOE contractor is in compliance with the Economy Act and other federal laws and regulations. It further states that work cannot begin until a written reimbursable agreement is executed.

According to the Director of the Office of Organization and Management Systems, the brochure will be treated as an educational tool to encourage sponsor agencies to submit WFO requests that will comply with DOE requirements. While this may improve the quality and completeness of WFO requests, we believe the burden remains on DOE to ensure that its requirements are met before a project is accepted.

[a]The DOE Institutional Manager at Lawrence Livermore National Laboratory provides program management, planning, analyses, and evaluation for assigned programs and institutional resources at the laboratory.

Types of Agreements to Perform WFO Are Not Used Consistently

DOE generally accepts the WFO agreement formats used by sponsoring agencies. As a result, a single operations office may have many types of agreements in effect, each with different elements of control. The August 1988 revision of the DOE Financial Policy Order established a requirement for uniform clauses in all WFO agreements regarding what services will be performed, at what cost, and over what period of time.

The three operations offices we reviewed used three mechanisms to establish a WFO project: an interagency agreement, a memorandum of understanding, or a funds transfer document, such as a Military Interdepartmental Purchase Request. Interagency agreements are the most specific; defined in Section 917 of DOE's Acquisition Regulations, they must contain the information now required by the Financial Policy Order. Memorandums of understanding are less structured, generally discussing broad areas of work to be performed, but not specifying exact products or services, agreed cost, or periods of performance. More specific task statements should be appended at later dates. Funds transfer documents may or may not contain statements of work or periods of performance along with the funds provided. Because these documents do not necessarily contain statements of work, the DOE offices using them could not ensure that the WFO to be performed was consistent with DOE policy. In the case of follow-on work, DOE also could not ensure that the work conformed to what was originally approved.

DOE's Financial Policy Order now requires a written document where DOE agrees to furnish specific goods or accomplish a specific task in support of another agency's mission. Among other things, this agreement must provide funding, billing, and payment data in support of the WFO. We concluded our audit work at Albuquerque and San Francisco before the revised order was issued. As this policy is implemented, we believe DOE may have greater control over its WFO projects. However, the consistency of implementation will materially affect the adequacy of this control feature.

For example, Oak Ridge has required a written interagency agreement for its WFO projects since May 1987. According to the WFO Coordinator, only one agreement is established with a sponsor organization (either a federal agency or a major subgroup within the agency). The document does not contain an established expiration date and does not provide funding. It also does not describe a specific work effort, but is broadly written to permit work under several proposals. It does, however, contain the sponsor's written certification that the work conforms to the requirements of the Economy Act, the Atomic Energy Act, and other

pertinent laws and regulations. The effect of this action is that the WFO sponsor certifications are not made for each project, thus calling into question the validity of the certification and weakening the control.

Written Determinations and Certifications Required by the DOE WFO Order Are Not Being Prepared

The DOE orders require that responsible DOE contracting officers make written determinations and certifications that the work conforms to the Economy Act, the Atomic Energy Act, and the acceptance criteria in the DOE WFO Order. Although the three offices we reviewed have taken steps to fulfill the requirement, none of them have actually complied with the DOE WFO Order.

Oak Ridge and San Francisco required contracting officer approval of forms that provided information on most or all of the criteria in the DOE WFO Order before a WFO project is accepted. Oak Ridge officials said that this approval constitutes their required certification. However, the San Francisco contracting officer said he does not make the required certifications. The reviews that take place within these offices by various DOE officials before the WFO project is approved may give assurance that the work conforms to legislative requirements and the DOE acceptance criteria. But in our view, the offices have not fulfilled the certification requirement.

DOE's Inspector General recently criticized Oak Ridge for relying on its contractor and certifications by the sponsor to ensure that WFO projects could not be performed by the private sector. The Inspector General recommended that Oak Ridge require other agencies to provide descriptions and results of efforts to obtain the work in the private sector as a basis for the DOE contracting officers' written certifications. However, Oak Ridge management did not concur in the recommendation, saying it was inappropriate to require such additional information from the sponsors.

Albuquerque's implementing order was revised in November 1987 to require the cognizant division to certify that proposed WFO projects would not place the facility in direct competition with the domestic private or public sectors. In accepting a proposal, the Director of the Reimbursable and Defense Technologies Division said he fulfills this requirement with a statement that the work is provided to the sponsor under the Economy Act and according to applicable laws and regulations. His statement is based on the reviews performed by the program coordinators in his division.

The Albuquerque program coordinators said they rely on statements made by the contractors unless they have personal knowledge of private sector capability. Further, as discussed earlier, we found that Albuquerque reviews for the DOE acceptance criteria relied heavily on contractor statements and generally were not documented. In our view, the statement made by the Division Director—based on the reviews performed by program managers—does not fulfill Albuquerque's requirements for written determinations and certifications.

We discussed this issue with the Albuquerque director responsible for WFO. He said he is considering a procedure in which his office would require a sponsor to provide a narrative justification concluding that the work could not be done in the private sector. While he plans to begin making a certification that the work complies with the requirements of the DOE WFO Order, the basis of the certification will continue to be primarily the assertions by sponsors and DOE contractors.

Limited Monitoring of WFO Projects Performed After Approval

The DOE WFO Order does not address monitoring of individual projects after their approval. However, we found that while some projects are monitored from a technical standpoint by DOE, others are not. San Francisco program managers have specific monitoring responsibilities imposed by the San Francisco WFO order. Oak Ridge program managers monitor WFO projects, although the Oak Ridge order does not require them to do so. Albuquerque does not require technical monitoring. We were told by all three offices that once a WFO project has been approved, the sponsor provides the primary oversight of technical progress. However, the contractors normally perform this work under the DOE contract, so they are contractually responsible only to DOE. Also, the WFO agreement generally is between the sponsor and DOE—not the contractor. In our view, this puts a burden on DOE to ensure that the commitment of the agreement is being met.

The San Francisco WFO order requires monitoring of WFO projects to ensure that its contractors perform satisfactory work and manage it in accordance with DOE policies and procedures. San Francisco program managers said they provide varying degrees of technical monitoring depending on the complexity of the work; projects with a higher dollar value generally receive greater oversight. For example, the Assistant Program Manager responsible for the Free Electron Laser and Charged Particle Beam projects (the two largest WFO projects) said that he attends four briefings per week and has weekly meetings with Livermore directors of each program. He also interacts regularly with

the program leaders who perform the work. In contrast, other program managers told us that they only have time for participation in semiannual San Franciscowide reviews of WFO. Still other program managers characterized their oversight as being somewhere between these two extremes.

Oak Ridge program managers also regularly monitor technical progress on WFO projects. Most receive progress reports from contractor personnel, usually on a monthly basis. They said they also attend briefings with sponsor personnel to ensure that work is going as planned. These managers must review and approve all changes to a WFO project, even if it is only an incremental funding action. With the new Oak Ridge requirement that each funds transfer or modification be accompanied by a task description, the program managers also keep abreast of work progress through their involvement in the approval process.

One Albuquerque WFO program coordinator, responsible for Strategic Defense Initiative work, said he regularly receives progress reports on a number of projects. The other program coordinators said they do not have time to monitor projects, but may become involved if a problem develops as work is performed.

We contacted technical personnel from the sponsor on the 10 projects we reviewed at San Francisco and Albuquerque,[7] and asked what contact they had with DOE personnel and whether they felt DOE was effectively overseeing the work. Seven of the 10 said they had no contact with DOE on their projects. Three said that DOE had either offered or given assistance when needed, generally over administrative matters. Two of these were Albuquerque projects, one was a San Francisco project. Five (three at Albuquerque, two at San Francisco) said they believed DOE personnel were effectively overseeing the work, while the other five said they did not know whether DOE oversight was effective. All 10 sponsors said they provided technical oversight of the projects and that the work performed by the DOE contractor was satisfactory.

Conclusions

DOE policies and procedures incorporate the requirements of the Economy Act and other pertinent legislation and are, for the most part, reflected in implementing procedures established at the operations office level. In our view, they could provide DOE with sufficient control

[7]Because we reviewed work performed by Inspector General personnel at Oak Ridge, we did not contact sponsor personnel from projects they reviewed.

over the work performed for non-DOE entities if they are properly implemented. However, DOE headquarters personnel do not routinely review local implementing orders to ensure that they are consistent with the DOE WFO Order. We found that one local order does not require the responsible contracting officer to make written determinations and certifications as required by the DOE order. We also found that another local implementing order excludes the performance of work for the NRC from the order's requirements, an inconsistency with the DOE WFO Order. Headquarters officials discovered this inconsistency and asked that the order be revised, but the local office has not yet done so.

While the policies, for the most part, adequately incorporate legislative requirements, we found that implementation is not consistent from office to office, and some procedures are not followed strictly enough to ensure effective control. Inconsistency is evident in the amount of information required, obtained, and used by the three operations offices to accept WFO projects, and the review process each office employs. Oak Ridge and San Francisco require detailed information about WFO projects and, while different, have review processes to ensure that proposed projects meet DOE acceptance criteria. Albuquerque, on the other hand, does not effectively implement its own procedures and generally relies on its contractors to ensure that projects meet DOE's acceptance criteria. The potential effect of this inconsistency is that a project could be accepted on the basis of a contractor's certification that would not be acceptable with independent DOE review.

In an effort to promote greater consistency of control, DOE recently revised its Financial Policy Order to require written WFO agreements with standard clauses that will, among other things, define work scope, performance period, and estimated cost. This requirement could provide for more consistent control over WFO projects and give DOE greater assurance that its acceptance criteria are being met. Albuquerque and San Francisco have not yet implemented this policy. Although Oak Ridge already requires written agreements, they do not contain some of the required standard clauses. Furthermore, they do not ensure that each project has a certification by the sponsor that the work conforms to the Economy Act as required by DOE policy.

In addition, the three offices were not making written determinations and certifications that WFO projects meet the DOE acceptance criteria as required by DOE policy. In our view, these required written statements establish accountability and give better assurance that the WFO project conforms to the acceptance criteria, thereby increasing DOE's control. We

believe the DOE Inspector General's recommendation that sponsor agencies be required to provide supporting documentation of their Economy Act determinations would greatly improve DOE's ability to make the written determinations and certifications.

In the area of monitoring, we believe DOE has a responsibility to review the work as it progresses, even though WFO is monitored by the agencies that sponsor the work. WFO represents a significant amount of the total work performed by the contractors, who are contractually responsible to DOE, not the sponsor. Also, the agreement to perform the work is between the sponsor and DOE, not the contractor. DOE therefore needs to ensure that (1) the contractor is accomplishing the tasks delegated by DOE when the funds were transferred and (2) DOE is fulfilling its obligation to the sponsor established by the WFO agreement.

Recommendations

We recommend that the Secretary of Energy direct the Assistant Secretary for Management and Administration to

- review DOE field offices' WFO orders to ensure that they

  1. incorporate all the requirements of the DOE-wide policies and

  2. do not exclude entities (such as the NRC) that are not excluded from the DOE-wide order and

- establish minimum standards for (1) the amount of information to be submitted to DOE on all the acceptance criteria in the DOE WFO Order, (2) the reviews that must be performed by DOE personnel before a WFO project is approved, and (3) DOE monitoring of WFO projects in process to assure that the contractor is adequately performing the work and that the commitment between DOE and the sponsor is being met.

We also recommend that the Secretary direct the heads of the DOE field offices to ensure that

- the revised Financial Policy Order is implemented consistently to ensure that each WFO agreement contain the required standard clauses and sponsor certifications,
- their responsible contracting officers make specific written determinations and certifications for WFO projects as required by the DOE WFO Order, and
- the offices incorporate the minimum standards recommended above.

DOE Does Not Identify or Recover Its Own Costs Associated With WFO

DOE does not charge other federal agencies for its costs to review, approve, and monitor WFO projects, a policy that is inconsistent with a 1984 Comptroller General decision on the subject. Consequently, DOE absorbs the costs of WFO oversight by using personnel resources that could otherwise be used to perform DOE work. While DOE's own work remained relatively constant over the last 5 years, WFO workload has almost doubled, increasing by over $1 billion. Nevertheless, DOE staffing levels over the same period remained nearly constant at the three offices we reviewed. In this regard, DOE does not separately track the personnel resources it expends on WFO projects, nor does it separately identify these resources in staffing requests to the Office and Management and Budget. We believe all these factors contribute to inadequate recovery of DOE costs of administering WFO projects and hinder DOE's ability to realistically allocate resources for controlling WFO.

DOE's Policy Inconsistent With Comptroller General Decision

The Economy Act, under which most WFO is performed, requires that performing agencies be reimbursed for actual WFO costs. While the act is silent as to the meaning of actual costs, the Comptroller General has held that all direct and certain indirect costs should be recovered. Depreciation is excluded as an indirect cost because it does not involve expenditures of currently available appropriations.

DOE's policy on the pricing of its materials and services states that DOE will recover the "full cost," or all direct and all allocable costs, of producing the material or providing the service for nonfederal sponsors. Federal sponsors, however, are not to be charged for the DOE costs of depreciation or "Department-added factor," which would otherwise be part of the full cost. The Department-added factor includes the costs of DOE management, such as the costs of staff to review, approve, and oversee WFO projects.

The DOE policy stems from a 1978 Comptroller General decision relating to the Economy Act, which states that direct costs attributable to WFO should be reimbursed, even if the performing agency did not increase its total expenditures to do the work.[1] This was allowed so that the performing agency would not be penalized to the extent that its funds were used to perform another agency's work, while the sponsor's appropriations were augmented to the extent that they could then be used for

[1]57 Comp Gen 674

some other purpose. We also held that indirect costs were not recoverable unless they were over and above what the performing agency would have incurred for its own work.[2]

In 1984, we modified our interpretation of the Economy Act. In GSA Recovery of SLUC [Standard Level User Charge] Costs for Storage of IRS Records,[3] we held that the distinction between recovery of direct and indirect costs was not supported by the law or reason. Therefore, we now require indirect costs with the exception of depreciation to be treated the same as direct costs; that is, they should be reimbursed by the federal sponsor. In fact, the decision specifically states that personnel costs which are fixed by law and otherwise incurred by a performing agency are required to be recovered. The DOE costs of review, approval, and monitoring WFO projects fit this definition.

The amount of the DOE costs associated with WFO depends on the time spent to perform the reviews, make the required certifications, and monitor the projects. As discussed in chapter 2, there is no standard review and approval procedure, although DOE's orders dictate that certain factors should be considered before a WFO project is accepted. We found that, in addition to the personnel engaged in WFO full time, a number of people contributed to the oversight process, usually performing evaluations of a technical nature as the need for their skills arose.

The DOE offices we reviewed did not account separately for time spent on WFO as opposed to management of DOE work. As a result, we could not determine the actual cost of oversight, and DOE officials were only able to estimate them. However, each office collects information twice a year on all uses of DOE personnel in its Manpower Utilization and Reporting System. This information is used at the headquarters level to estimate overall DOE staffing needs for budget purposes and to prepare requests to the Office of Management and Budget for personnel ceilings. The reporting system does not require field offices to identify WFO review costs separately, and therefore is not a reliable source of information on total DOE WFO resources. We found that Oak Ridge and San Francisco consider WFO as a distinct staff usage category. However, the information is not translated into costs and is not used to charge WFO customers.

[2]57 Comp. Gen. 682

[3]B-211953, Dec. 7, 1984

DOE Financial Policy officials said the 1984 decision would not materially affect the DOE position on recovering indirect, administrative-type costs associated with WFO. They said that such costs probably represented only a small portion of the work done by individuals in the various DOE procurement and finance offices and were therefore not significant. We explained that two of the three offices in our review had several full-time professionals dedicated to WFO oversight, and all three offices had people devoting significant portions of their time to reviewing and approving WFO projects. The Financial Policy Office Director was not aware that DOE personnel were dedicated exclusively to WFO, and said that the costs of these persons should be recovered from sponsor agencies.

DOE Staff Allocations for WFO Oversight

The amount of WFO accepted and performed by DOE has increased significantly, while DOE's own work has remained relatively constant. According to the DOE Controller's Office, in 1983, DOE obligated $1.3 billion for WFO, according to the headquarters DOE Budget Office. In 1987, $2.2 billion was obligated. Nearly 60 percent of this work was performed at the three operations offices we reviewed: $688 million (31.5 percent) at Albuquerque, $334 million (15.3 percent) at Oak Ridge, and $243 million (11.2 percent) at San Francisco. Nevertheless, despite significant increases in WFO workload, personnel levels at each office remained relatively constant.

During the 5-year period from 1983 to 1987, Albuquerque records show that WFO increased from $271 million to $680 million, or 151 percent. At the same time, Albuquerque funding for DOE work increased 14 percent, from $2.8 billion to $3.2 billion. Its total personnel, however, only increased by 7.5 percent, from 1,286 to 1,382. Presently, Albuquerque dedicates 15 full-time DOE personnel to reviewing and approving WFO projects, but they generally do not monitor projects once they are approved. Albuquerque WFO officials said they do not have sufficient staff to do more than approve the WFO projects and process funding documents. The Reimbursable Programs Branch Chief observed that WFO constitutes one-third of the funding of the two major national laboratories under its jurisdiction. Yet only 15 persons, representing about 1 percent of DOE staff resources in the operations office, oversee this work.

Oak Ridge's increases in WFO have been even greater than Albuquerque's. Between 1983 and 1987, WFO increased from $66 million to $324 million (391 percent). DOE-funded work also increased 7.7 percent, from $2.6 billion to $2.8 billion. Yet total DOE personnel declined by 27 over

the period, from 532 to 505. Oak Ridge has three persons devoted full time to WFO. Several others contribute part of their time, which accounts for about 1.5 additional full-time equivalent personnel.

Officials told us that one additional person, to be hired in the near future, will work full-time on WFO. The officials believe that with the addition of this staff person, Oak Ridge will have enough staff to adequately review, approve, and monitor their WFO projects. These 5.5 full-time equivalent personnel still represent only 1.1 percent of Oak Ridge's total staff, but are responsible for managing WFO representing 10.3 percent of the office's total funding.

San Francisco's WFO increased 153 percent from $96 million to $243 million from 1983 to 1987, while DOE work increased 25 percent from $1.2 billion to $1.5 billion. Yet full time DOE personnel at that office increased by only 3 during the period, from 289 to 292. Like Albuquerque and Oak Ridge, San Francisco does not separately track how much total staff time is actually devoted to WFO. On the basis of discussions with all division heads, officials said that about 11 full-time equivalent personnel, representing 3.8 percent of the San Francisco work force, were involved in WFO in some way. San Francisco officials do not view the increased oversight burden associated with the WFO increase as a problem. Program division personnel manage the increased workload by adjusting their oversight priorities; projects most in need of oversight will receive the most attention.

Clearly, the amount of resources dedicated to WFO oversight differed between the three offices, as did DOE officials' views of whether the resources were adequate. As discussed in chapter 2, the amount of oversight varies, and some DOE policy requirements are not currently being met by any of the offices. Because DOE lacks performance standards regarding WFO oversight, we could not determine the appropriate level of resources needed for WFO oversight at these offices.

Personnel Ceilings Not Adjusted for WFO

Personnel levels at DOE are dictated by annual ceilings established by the Office of Management and Budget. DOE's Office of Organization and Management Systems, under the Assistant Secretary for Management and Administration, is responsible for DOE personnel levels agencywide. It is also responsible for overall management of WFO in DOE. Most DOE costs associated with WFO are for personnel, the director of that office said. He was aware that a number of DOE staff work full time on WFO

oversight, but because the staff is so small compared with other requirements, DOE does not include them in its request to the Office of Management and Budget for personnel ceilings. In his view, WFO staffing needs are not significant enough to justify a specific request, especially when DOE's own program staffing needs are much greater.

We agree that the DOE staff devoted to WFO at the three offices we reviewed is relatively small compared with unstaffed DOE personnel needs. However, because increasing amounts of WFO are accepted from outside agencies, DOE resources are either being spread thinner or, as is the case with Albuquerque, less oversight is being performed. In any case, DOE is absorbing both the financial and personnel costs associated with WFO oversight.

Conclusions

DOE's policy of not charging other federal agencies for its own personnel costs hinders its ability to realistically allocate resources to WFO oversight. The policy creates a disincentive for DOE to accurately determine the resources needed to properly review, approve, and monitor the work. Our 1984 interpretation of the Economy Act was based on the idea that a performing agency is penalized when its indirect WFO costs funded out of current appropriations are not recoverable. Also, if sponsoring agencies were required to reimburse DOE for the cost of reviewing, approving, and overseeing WFO projects, any staffing needs for this purpose would be easier to justify when requesting personnel ceilings from the Office of Management and Budget. DOE's policy does not recognize this interpretation, although when told of the amount of DOE resources involved, officials agreed that such costs should probably be recovered.

Also, as discussed in chapter 2, DOE has not clearly established what reviews DOE personnel should perform for adequate WFO oversight. Officials at two of the three offices we reviewed believe they are adequately overseeing their WFO projects. However, without established standards, DOE cannot ensure that it provides a consistent level of oversight with staff allocated to support that level. If standards are established as recommended in chapter 2, staffing needs can be analyzed. By analyzing staffing needs, DOE could accurately determine what resources are necessary to manage WFO. If sponsoring agencies were charged for these resources, DOE would not be using its own appropriations to fund part of the cost of WFO and could better allocate its personnel to provide proper oversight.

Recommendations

We recommend that the Secretary of Energy direct appropriate DOE officials to

- revise DOE policy to require other federal agencies to reimburse DOE for its personnel costs associated with WFO oversight;
- establish a system to identify DOE personnel costs associated with WFO so that these costs can be recovered from other federal agencies; and
- determine the amount of DOE staff resources needed to effectively review, approve, and monitor WFO in the context of the minimum standards recommended in chapter 2 at each field office that performs WFO; and take the necessary steps to allocate staff accordingly.

We also recommend that the Secretary direct the Assistant Secretary for Management and Administration to separately identify WFO oversight staffing needs in the next DOE request for personnel to the Office of Management and Budget.

Need to Resolve Issues of Appropriateness and Oversight of Certain WFO Performed by DOE's Oak Ridge Contractor

Martin Marietta Energy Systems (Energy Systems), DOE's operating contractor under the Oak Ridge Operations Office, performs a special class of WFO through a group that is organizationally excluded from DOE programmatic oversight. This group, known as Data Systems Research and Development (Data Systems), received about $160 million in WFO funds in fiscal year 1987, while its work for DOE amounted to about $166,000. The group was shifted out of the Oak Ridge National Laboratory after concerns were raised by the DOE Office of Energy Research that the level of WFO was excessive and could be diluting DOE's mission at the laboratory. This situation could result in Energy Systems accepting WFO without appropriate DOE oversight. While DOE recognized this control problem 3 years ago, effective action has not yet been taken to resolve it.

Background

Data Systems is a group within Energy Systems that creates and applies advanced computing and data systems technology through research, development of one-of-a-kind systems, and design of prototypes for advanced information systems. Originally part of the Oak Ridge National Laboratory, its functions began when the Energy Research and Development Administration was created in the early 1970s. Massive amounts of data relating to energy supplies and availability were accumulated and displayed for the Energy Information Administration, which ultimately became part of DOE. Over time, DOE's need for this information diminished, and the services were no longer required. However, these laboratory personnel continued to perform work for other agencies rather than DOE, and later became the group known as Data Systems. Data Systems received about $160 million from non-DOE entities in fiscal year 1987, primarily the Department of Defense, while its work for DOE amounted to only about $166,000.

DOE's Office of Energy Research in headquarters has programmatic responsibility for all work performed at the laboratory, including WFO. In 1985, when the Office of Energy Research questioned the consistency of the Data Systems work with laboratory missions, Data Systems was separated from the laboratory and became part of the Energy Systems Central Organization.

The Central Organization provides support services that are necessary to execute both WFO and DOE programs to all organizational elements of the contractor. These services include all administrative functions (e.g.,

accounting, procurement, and legal) as well as engineering, data processing, and telecommunications. Except for Data Systems' work, all functions of the Central Organization support the operating components of Energy Systems that are directed by DOE. As such, the Central Organization does not have a direct DOE mission, nor does it fall under DOE headquarters programmatic oversight, except as its services assist operating groups that have specific DOE missions.

DOE Headquarters Programmatic Oversight of WFO

Three DOE headquarters offices provide programmatic oversight to the operating divisions of Energy Systems. The Office of Energy Research oversees programs of the Oak Ridge National Laboratory. The Office of Defense Programs oversees the Oak Ridge Y-12 weapons facility. The Office of Nuclear Energy oversees the Oak Ridge gaseous diffusion plants. In fiscal year 1987, only the laboratory and Data Systems had significant levels of WFO, with over $100 million each. The other facilities had about $13 million in WFO, combined. Prior to fiscal year 1986, when Data Systems was still part of the laboratory, the Office of Energy Research had responsibility for overseeing nearly all WFO performed by Energy Systems.

The Office of Energy Research (Energy Research) uses the DOE institutional planning process to oversee the multiprogram laboratories under its jurisdiction. Institutional planning in DOE has taken place for 10 years, and has been called the "fundamental tool for the management oversight of the national laboratory system" by the Secretary of Energy. This process allows Energy Research to review and approve the missions, operating year programs, exploratory research levels, and levels of WFO for the contractors that are under its jurisdiction.

Energy Research officials obtain comments from all DOE program offices that will have work performed by the contractor on the proposed plan and supporting data. At the end of the review process, an institutional plan is approved identifying which programs the contractor will perform during the coming year. The plan is supported by individual DOE program managers in headquarters who authorize specific work efforts in accordance with the plan. They also monitor the results of work to ensure that it conforms to what was authorized.

Proposed levels of WFO are evaluated by headquarters program personnel as part of the planning process. Energy Research officials said they look at the appropriateness and conformance of WFO projects with DOE's mission and will not approve a plan if the proposed WFO projects do not

appear proper. They are very concerned that too much WFO will dilute the DOE mission of their laboratories, they said. Accordingly, Energy Research has issued a guideline limiting the level of WFO to 20 percent of operating funding at each of its laboratories. If a laboratory under Energy Research's jurisdiction wants to accept higher levels of WFO, it must get approval from headquarters.

Concerns Over Appropriateness of WFO Precipitate Data Systems' Removal From Headquarters Oversight

When concerns were raised by headquarters officials about the appropriateness, considering the large volume, of the Data Systems work (which is virtually all WFO), Energy Systems and Oak Ridge officials decided to remove the group from the laboratory, which thus excluded Data Systems from Energy Research's jurisdiction. Oak Ridge and Energy Systems have attempted to remedy the resultant lack of headquarters oversight by developing an independent WFO program plan, but it has not been effective.

Data Systems Moved Out of the Laboratory

Energy Research officials were alerted in 1985, when the amount of WFO done by Data Systems exceeded the 20-percent guideline. They said that they did not approve the Data Systems work for performance at the laboratory because (1) it did not appear to have a true "research" component; it was more production oriented, (2) it was not consistent with the approved missions of the laboratory, and (3) it appeared that some of the work could be done in the private sector. Thus, it appears that a conflict may exist between the work performed by Data systems and the provisions of the Economy Act.

The Energy Research officials cited Data Systems' involvement in developing personnel management information systems for several federal organizations. The development of one such system in their opinion might be considered appropriate research, but repeating the process becomes primarily a way to keep people productively employed. We noted at least two Data Systems WFO projects, approved 5 months apart, that had nearly identical statements of work. Each was estimated to cost about $8 million.

DOE Oak Ridge officials felt the work was appropriate for Energy Systems, and allowed the contractor to move the Data Systems group out of

the laboratory.[1] Data Systems was transferred to the Central Organization because its work was applied development (rather than research), which is a function of the Energy Systems computer organization located there. Because it is no longer part of an Energy Systems operating division, Data Systems is no longer programmatically managed by DOE headquarters, although its work is reviewed by an Oak Ridge WFO program manager.

The Oak Ridge Assistant Manager for Energy Research and Development told us that, following the discussions of the Data Systems work by headquarters DOE officials, Oak Ridge agreed that the work was not appropriate for the laboratory and decided to move it to a more appropriate place in Energy Systems. In requesting the move, the Assistant Manager said that the Data Systems work would be better managed from a central organization more closely related to the work. He said that highly skilled employees could continue to work productively, even though there was very little DOE work for them to do. The move also allowed Energy Systems to transfer employees with the requisite skills to Data Systems, as well as DOE program areas (where backlogs of work existed) from a gaseous diffusion plant that was about to be closed down, rather than lay them off.

Oak Ridge officials said they are not concerned about the lack of headquarters oversight of the Data Systems work. Several officials said that the problem was essentially one of lacking a headquarters "spokesperson" or "sponsor." They believe that the reviews performed at Oak Ridge before WFO projects are approved are sufficient to ensure that the work conforms to DOE and legislative requirements.

Oak Ridge Efforts to Improve Oversight

Oak Ridge officials have attempted to remedy the omission of Data Systems from the institutional planning process. Since 1986, Energy Systems has developed a "Work for Others Institutional Plan" at the request of Oak Ridge, which contains information about planned levels and subject areas of WFO for all Energy Systems organizations, including Data Systems. Although it has no connection to the DOE institutional planning process, this unsolicited plan was submitted to DOE headquarters for review.

[1] According to the Oak Ridge Assistant Manager for Energy Research and Development, this action was an administrative procedure taken by Oak Ridge management as part of its responsibility to administer the Energy Systems contract. As such, it did not require headquarters review or approval.

However, Energy Research officials said they were responsible only for evaluating the Oak Ridge National Laboratory portion of the plan. Since Data Systems was no longer part of the laboratory, they did not review the Data Systems WFO. The Director, Office of Organization and Management Systems, also received a copy of the plan. He told us he did not have the technical expertise to evaluate the plan—nor could he find anyone else in DOE headquarters who was willing to do so. As a result, the WFO plan really did nothing to ensure that the work performed by Data Systems had adequate programmatic oversight as would other types of WFO.

Headquarters Views of Data Systems Work

Headquarters officials in the Office of Management and Administration expressed concern about the lack of headquarters oversight of the Data Systems work. Whereas WFO is useful in leveling temporary declines in DOE work at the operating contractors, Energy Systems may have gone beyond this concept with the establishment of a whole group that has no programmatic responsibility to DOE.

While admitting that he does not have the skills to evaluate this work, the Director, Office of Organization and Management Systems, believes it is valuable. The government is experiencing a crisis in data accumulation and assimilation, and there is an acute need for the kind of research and development that Data Systems does. Nevertheless, he was concerned that the work could be obtained in the private sector, thus raising questions about whether it might conflict with Economy Act requirements. He said that DOE has not conducted an evaluation to determine whether the work could be done in the private sector, considering this to be the responsibility of the sponsor.[2]

The director has been searching for a solution to this problem for some time. Although he has met with computer specialists throughout DOE, he has not been able to get any consensus on whether the Data Systems work is appropriate for DOE to accept or how it should be monitored at headquarters. He has also discussed the issues with representatives of the Office of Energy Research and the DOE ADP Policy group in headquarters. Neither office feels it is appropriate to take the responsibility of overseeing Data Systems because the work is not in the offices' jurisdiction. He is trying to determine the most appropriate solution so that

[2]The Oak Ridge Acting Director of Research and Waste Management said that Oak Ridge and contractor personnel discuss this issue extensively before approving a Data Systems WFO project, but that no formal analyses are conducted.

the Data Systems work can continue under effective DOE programmatic oversight, he said. So far, however, his efforts have been unsuccessful.

Conclusions

Data Systems performs work almost entirely for other federal agencies, although it is part of one of DOE's exclusive management and operating contractors. When the nature and level of work performed by this group was questioned by DOE program officials in headquarters, it was moved out of headquarters jurisdiction. However, the questions about Data Systems' work remain, particularly in light of the fact that DOE programmatic oversight has been eliminated. While it may be of value to the sponsoring agencies and allows highly skilled employees to continue working, we are concerned about the work's appropriateness for the DOE contractor and whether it conforms to the provisions of the Economy Act. Despite agency officials' expressed concerns about whether the work could be done in the private sector, no formal evaluation has been done by DOE to determine whether this is true.

DOE recognized the problem of no programmatic oversight 3 years ago when the organizational move occurred, but as yet has taken no action to correct it. In our view, this is an unacceptable length of time to deal with the issue without resolution. As long as this work continues without DOE programmatic oversight, DOE headquarters has little assurance that the WFO performed by this group conforms to the DOE requirement that the work be consistent with DOE's mission.

Recommendations

We recommend that the Secretary of Energy formally determine whether the work performed by Data Systems could be provided as conveniently or cheaply by a commercial enterprise. If so, the Secretary should terminate the Data Systems work. If the work cannot be provided by a commercial enterprise, the Secretary should immediately assign it to a DOE headquarters group for programmatic oversight.

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